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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

16 CROWN CELL INC.,
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18 Plaintiff,
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20 v.
21 ECOVACS ROBOTICS, INC.
22
23 Defendants.

Case No. 3:21-cv-07890-SI

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO
STRIKE OR, IN THE
ALTERNATIVE, TO DISMISS
PLAINTIFF'S COMPLAINT**

Date: February 11, 2022
Time: 10:00 a.m.
Crtrm.: 1

The Honorable Susan Illston

Complaint Filed: October 7, 2021

On January 7, 2022, Defendant Ecovacs Robotics, Inc. (“Ecovacs” or “Defendant”) filed a motion to strike or, in the alternative, to dismiss Plaintiff Crown Cell Inc.’s (“Crown Cell” or “Plaintiff”) second claim for relief, Intentional Interference with Contractual Relationship (Count II), in Plaintiff’s original Complaint. (*See* Dkt. 12). In its motion, Ecovacs contends that “Plaintiff’s intentional interference claim must be stricken pursuant to California’s anti-SLAPP statute and dismissed pursuant to Rule 12(b)(6).” (*Id.*, Memo at p. 1.)

Federal Rule of Civil Procedure 15(a)(1) affords Crown Cell the opportunity to amend its Complaint (Dkt. 1) once as a matter of course after service of a Rule 12(b) motion. (Fed. R. Civ. P. 15(a)(1).) This right to amend is available even though Ecovac’s motion is based in part on California’s anti-SLAPP statute. *See Skybanr Media Grp., Inc. v. Generation Capital Assocs.*, 126 F. App’x 827, 828 (9th Cir. 2005) (“Plaintiffs had the right to amend their complaint once ‘as a matter of course’ before the defendants filed their answer, even though an anti-SLAPP motion was pending.”) (citing Fed. R. Civ. P. 15(a) and *Verizon Del., Inc. v. Covad Communs. Co.*, 377 F.3d 1081, 1091 (9th Cir. 2004) (explaining that “granting a defendant’s anti-SLAPP motion to strike a plaintiff’s initial complaint without granting the plaintiff leave to amend would directly collide with Fed. R. Civ. P. 15(a)’s policy favoring liberal amendment.”)); *Baiting Jiang v. KNTV TV LLC*, No. 21-cv-01293-LB, 2021 U.S. Dist. LEXIS 195216, at *7 (N.D. Cal. Oct. 8, 2021) (“In federal court, federal procedures apply. If a defendant’s anti-SLAPP motion challenges the legal sufficiency of the plaintiff’s complaint, then federal pleading standards apply — including granting the plaintiff leave to amend.”).

Contemporaneously with the filing of this Opposition, Crown Cell has filed a First Amended Complaint (Dkt. 16). As a result, Ecovac’s motion to strike or dismiss has been rendered moot and should therefore be denied. *See Yellowcake, Inc. v. Triwolf Media, LLC*, No. 1:20-CV-0981 AWI SKO, 2020 U.S. Dist. LEXIS 213961, at *4 (E.D. Cal. Nov. 16, 2020) (denying motion to strike under anti-

1 SLAPP statute as moot after first amended complaint (“FAC”) was timely filed
2 because “the FAC is the operative complaint” and motion to strike “is attacking a
3 now non-existent complaint”).

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5 DATED: January 21, 2022

Respectfully submitted,

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7 */s/ Coby S. Nixon*

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